IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Bail Appl..No. 5851 of 2007()

PUTHENKURISSU POLICE STATION

PETITIONER

K.N.RAMACHANDRAN,
PROPRIETOR, SAGAR, EXIM, ST.RITAS ROAD,
VYTTILA, ERNAKULAM-19.

BY ADV. SRI.N.K.MOHANLAL

RESPONDENTS:

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1. SUB- INSPECTOR OF POLICE,
PUTHENKURISSU.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5851 of 2007

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Dated this the 26th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused in a crime registered for offences punishable, inter alia, under Section 420 I.P.C. The crime has been registered on the basis of a private complaint filed by the defacto complainant before the learned Magistrate, which the learned Magistrate had referred to the police under Section 156(3) Cr.P.C. The gravamen of the dispute is regarding disposal of an item of property, in which a charge had been created by the bank. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned Prosecutor, on instructions, submits that the investigation is in progress. No decision has been taken to arrest the petitioner as an accused in this crime. The Investigator is verifying the details. An impression is created that the petitioner is acting in collusion with the defacto complainant. The petitioner is not required to be arrested at all in this crime.

3. The submissions of the learned Prosecutor are taken note of and recorded. It is evident that the decision to arrest the petitioner has not been taken so far. However, I am satisfied that the apprehension of the petitioner is justified, he having been arrayed as an accused in the F.I.R. I am satisfied that appropriate directions under Section 438 Cr.P.C. can be issued in favour of the petitioner.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 3.10.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 3.10.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 3.10.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 3.10.2007.

(R. BASANT)
Judge

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